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EXAMINER

YOUNG, JOHN L

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/842,997

Applicant(s)  
Hagen et al.

Examiner  
John Young

Art Unit  
3622



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 26, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other: \_\_\_\_\_

*[Handwritten signature]*  
11-19-03

Art Unit: 3622

## **FIRST ACTION REJECTION**

### **DRAWINGS**

1. This application has been filed with drawings that are considered informal; however, said drawings are acceptable for examination and publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

### **Information Disclosure Statement References Not Considered**

2. 37 CFR 1.98(a)(2) requires a legible copy of each U.S. and foreign patent, each publication or that portion which caused it to be listed. The references listed on the IDS which are crossed through are not found in the application. Therefore, the references crossed through have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Art Unit: 3622

### **Trademark Or Trade Name As A Limitation In The Claim**

3. Dependent claim 6 is rejected under 35 U.S.C. §112 ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention in the instant application.

As per claim 6, said claim contains the trademark/trade name "NetMeeting".

Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35

U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982).

The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe one of at least many versions of an Internet conferencing solution for all Windows users with multi-point data conferencing, text chat, whitboard, and file transfer collaboration and conferencing client, and, accordingly, the identification/description is indefinite.

Appropriate correction is required.

Art Unit: 3622

**CLAIM REJECTION — 35 USC §101 UTILITY LACKING**

**Sensitive and/or Offensive Subject Matter**

4. Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility.

Dependent claim 10 in this application, is rejected as being offensive and therefore improper subject matter for patent protection. Such subject matter does not meet the statutory requirements of 35 U.S.C. 101. Moreover, since 37 CFR 1.3 proscribes the presentation of papers which are lacking in decorum and courtesy, and this includes a claim which might reasonably be considered offensive, such subject matter as presented herein in dependent claim 10 is deemed to be clearly contrary to 37 CFR 1.3. Such language in a Federal Government publication would not be in the public interest. See MPEP § 608.

**CLAIM REJECTIONS — 35 U.S.C. §102**

The following is a quotation of 35 U.S.C. §102(b) which forms the basis of the following novelty rejections set forth in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3622

5. Claims 1-4, 16, 17 & 18 are rejected under 35 U.S.C. §102(e) as being anticipated by Eggleston (6,061,660) 05/09/2000.

As per claim 1, Eggleston inherently meets the limitations of claim 1, i.e.,

Eggleston (col. 1, ll. 27-45; and whole document) shows “A method of promoting a good or service. . . .”

Eggleston (col. 22, ll. 36-47; and whole document) discloses: “*The card 11 may have be any conventional electronic payment card, or may be a microchip-embedded smart card. . . .*”

Eggleston (col. 22, ll. 36-47; FIG. 24; and col. 43, ll. 19-22; and whole document) shows “distributing a computer readable memory device to at least one potential consumer. . . .”

Eggleston (FIG. 24; FIG. 26; and col. 43, ll. 25-60) shows “checking system parameters on a data processing device into which the computer readable memory device is inserted. . . .”

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26; FIG. 19; col. 36, ll. 20-40 col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and

Art Unit: 3622

whole document) shows “running a promotional game associated with the computer readable memory device on the data processing device. . . .”

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26; and col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) shows “awarding a promotional prize as a result of the promotional game. . . .”; and

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26; and col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) shows “running a promotional game associated with the computer readable memory device o the data processing device. . . .” shows encouraging the potential consumer to contact a service provider to receive the promotional prize, wherein a sales agent at the service provider may make a sales presentation to the potential consumer prior to collection of the promotional prize.” Therefore, the elements of the instant claim read on the disclosure of Eggleston cited above.

Art Unit: 3622

As per claim 2, Eggleston shows the method of claim 1. Eggleston inherently meets the limitations of claim 2, i.e.,

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26; and col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) shows “wherein checking system parameters comprises checking to determine if a modem is present on the data processing device.”

As per claims 3 & 4, Eggleston shows the method of claim 1. Eggleston inherently meets the limitations of claims 3 & 4, i.e.,

Eggleston (col. 8, ll. 25-30) shows “wherein checking system parameters comprises checking to determine if a sound card . . . [and] a video card . . . [are] present on the data processing device.”

Independent claim 16 is rejected for substantially the same reasons as the rejection of independent claim 1.



Art Unit: 3622

As per claim 17, Eggleston inherently meets the limitations of claim 17, i.e., Eggleston (col. 1, ll. 27-45; and whole document) shows “A method of promoting a good or service. . . .”

Eggleston (col. 22, ll. 36-47; and whole document) discloses: “*The card 11 may have be any conventional electronic payment card, or may be a microchip-embedded smart card. . . .*”; and

Eggleston (col. 22, ll. 36-47; FIG. 24; and col. 43, ll. 19-22; and whole document) shows “distributing a computer readable memory device to at least one potential consumer. . . .” The Examiner interprets these disclosures as showing “distributing a software program to at least one potential consumer. . . .”

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26; FIG. 19; col. 36, ll. 20-40 col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) shows “encouraging the at least one potential consumer to run the software program; allowing the at least one potential consumer to play a game from the software program. . . .”

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26; and col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col.

Art Unit: 3622

11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) shows “awarding a prize to the at least one potential consumer for playing the game. . . .”; and Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26; and col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) shows “collect the prize, requiring the at least one potential consumer to contact a sales agent such that the sale[sic] agent can make a sales presentation to the at least one potential consumer..” Therefore, the elements of the instant claim read on the disclosure of Eggleston cited above.

As per claim 18, Eggleston inherently meets the limitations of claim 18, i.e., Eggleston (col. 1, ll. 27-45; and whole document) shows “A method of promoting a good or service. . . .”

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26;. FIG. 19; col. 36, ll. 20-40 col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67;

Art Unit: 3622

col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) shows “receiving a promotional game; playing the promotional game to win a prize; contacting a sales agent at a service provider to collect the prize; acquiring knowledge about another good or service sold by the service provider; and purchasing a good or service from the provider.”

Therefore, the elements of the instant claim read on the disclosure of Eggleston cited above.

#### **CLAIM REJECTION — 35 U.S.C. §103( a )**

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3622

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-14 & 19-28 are rejected under 35 U.S.C. §103( a ) as being obvious over Eggleston.

As per dependent claims 5-8, 10 & 12-14, Eggleston shows the method of claim 1 and subsequent base claims depending from claim 1.

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26;. FIG. 19; col. 36, ll. 20-40 col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) suggests the elements and limitations of claims 5-8, 10 & 12-14.

(NOTE: It is well settled in the law that a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including non-preferred embodiments. (See *Merck & Co. Inc. v. Biocraft Laboratories Inc.*, 10 USPQ2d 1843 (CAFC 1989)).

Eggleston (col. 5, ll. 26-36; col. 7, ll. 6-14; col. 13, ll. 6-27; col. 15, ll. 15-25; col. 18, ll. 46-65; col. 41, ll. 37-65; col. 42, ll. 32-67; FIG. 10; FIG. 11; FIG. 12; FIG. 13;

Art Unit: 3622

FIG. 14; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 2; FIG. 3; FIG. 4; FIG. 5; FIG. 6; FIG. 7; FIG. 8; FIG. 9; and whole document) shows “soliciting further information form the potential consumer prior to contacting the service provider. . . .” [see claim 9].

Eggleston (FIG. 14 and FIG. 15) shows “the service provider provides online trading services to consumers. . . .” [see claim 11].

Eggleston lacks explicit recitation of the elements and limitations of claims 5-8, 10 & 12-14; even though Eggleston suggests same, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Eggleston cited above with would have been selected in accordance with the elements and limitations of claims 5-8, 10 & 12-14 because such disclosure would have provided means “*to permit sponsors to build, buy, store, modify, offer, track and administer incentive programs and to permit sponsors and retailers to offer improved award fulfillment for participants in incentive programs. . . .*” (see Eggleston (col. 5, ll. 45-55)).

As per dependent claims 19-22, Eggleston shows the method of claim 18.

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26;. FIG. 19; col. 36, ll. 20-40 col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and

Art Unit: 3622

whole document) suggests the elements and limitations of claims 19-22. (NOTE: It is well settled in the law that a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including non-preferred embodiments. (See *Merck & Co. Inc. v. Biocraft Laboratories Inc.*, 10 USPQ2d 1843 (CAFC 1989)).

Eggleston lacks explicit recitation of the elements and limitations of claims 19-22; even though Eggleston suggests same, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Eggleston cited above with would have been selected in accordance with the elements and limitations of claims 19-22 because such disclosure would have provided means “*to permit sponsors to build, buy, store, modify, offer, track and administer incentive programs and to permit sponsors and retailers to offer improved award fulfillment for participants in incentive programs. . .*” (see Eggleston (col. 5, ll. 45-55)).

As per claim 23, Eggleston (col. 1, ll. 27-45; and whole document) shows “A system of promoting a good or service. . . .”

Eggleston (col. 22, ll. 36-47; and whole document) discloses: “*The card 11 may have be any conventional electronic payment card, or may be a microchip-embedded smart card. . . .*”

Art Unit: 3622

Eggleston (col. 22, ll. 36-47; FIG. 24; and col. 43, ll. 19-22; and whole document) shows “a computer readable medium comprising software distributed to at least one potential consumer; and said software adapted to be installed on a computer associated with the at least one potential consumer. . . .”

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26; FIG. 19; col. 36, ll. 20-40 col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; col. 43, ll. 25-60; and whole document) shows “software adapted to perform a system check on the computer to determine network capabilities, hardware, and software configurations of the computer. . . .”

Eggleston (col. 21, ll. 65-67; col. 22, ll. 1-32; col. 44, ll. 56-67; col. 45, ll. 1-15; col. 43, ll. 1-5 FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26; and col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) suggests “said software adapted to allow the at least one potential consumer to play a game, be awarded

Art Unit: 3622

a prize, and encouraged to contact the call center to collect the prize while being subjected to a sales presentation by one of the plurality of sales agents.”

Eggleston (col. 21, ll. 65-67; col. 22, ll. 1-32; col. 44, ll. 56-67; col. 45, ll. 1-15; col. 43, ll. 1-5) suggests “a call center staffed with a plurality of sales agents; and . . . the at least one potential consumer . . . encouraged to contact the call center to collect the prize while being subjected to a sales presentation by one of the plurality of sales agents.”

(NOTE: It is well settled in the law that a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including non-preferred embodiments. (See *Merck & Co. Inc. v. Biocraft Laboratories Inc.*, 10 USPQ2d 1843 (CAFC 1989)).

Eggleston lacks explicit recitation of the elements and limitations of “a call center staffed with a plurality of sales agents; and . . . the at least one potential consumer . . . encouraged to contact the call center to collect the prize while being subjected to a sales presentation by one of the plurality of sales agents. . . .” even though Eggleston suggests same, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Eggleston cited above with would have been selected in accordance with the suggested elements and limitations of claim 23 because such disclosure would have provided means “*to permit sponsors to build, buy, store, modify, offer, track and administer incentive programs and to permit sponsors and retailers to*



Art Unit: 3622

*offer improved award fulfillment for participants in incentive programs. . . .”* (see Eggleston (col. 5, ll. 45-55)).

Independent claim 24 is rejected for substantially at least the same reasons as independent claim 23.

As per dependent claims 25-28, Eggleston shows the method of claim 24 and subsequent base claims depending from claim 18.

Eggleston (FIG. 10; FIG. 15; FIG. 16; FIG. 17; FIG. 18; FIG. 21; FIG. 22; FIG. 23; FIG. 24; FIG. 25; FIG. 26;. FIG. 19; col. 36, ll. 20-40 col. 1, ll. 27-36; col. 3, ll. 10-20; col. 5, ll. 1-26; col. 11, ll. 1-7; col. 13, ll. 42-67; col. 14, ll. 25-67; col. 18, ll. 63-67; col. 19, ll. 1-30 ; col. 23, ll. 13-20; col. 26, ll. 1-67; col. 30, ll. 10-67; col. 31, ll. 25-67; col. 32, ll. 1-20; col. 33, ll. 10-40; col. 34, ll. 1-67; col. 35, ll. 2-50; col. 36, ll. 19-63; and whole document) suggests the elements and limitations of claims 25-28. (NOTE: It is well settled in the law that a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including non-preferred embodiments. (See *Merck & Co. Inc. v. Biocraft Laboratories Inc.*, 10 USPQ2d 1843 (CAFC 1989)).

Eggleston lacks explicit recitation of the elements and limitations of claims 25-28; even though Eggleston suggests same, it would have been obvious to a person of ordinary

Art Unit: 3622

skill in the art at the time of the invention that the disclosure of Eggleston cited above with would have been selected in accordance with the elements and limitations of claims 25-28 because such disclosure would have provided means *“to permit sponsors to build, buy, store, modify, offer, track and administer incentive programs and to permit sponsors and retailers to offer improved award fulfillment for participants in incentive programs. . . .”* (see Eggleston (col. 5, ll. 45-55)).

### CONCLUSION

7. Any response to this action should be mailed to:

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



John L. Young

Patent Examiner

November 19, 2003